

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

JAMES ORIOLES,)
Plaintiff)
)
)
v.) C.A. NO. 11-30004-MAP
)
)
MASSMUTUAL FINANCIAL GROUP)
ET AL.,)
Defendants)

MEMORANDUM AND ORDER RE:
REPORT AND RECOMMENDATION WITH REGARD TO
DEFENDANTS' MOTION FOR JUDGMENT ON THE PLEADINGS
(Dkt. Nos. 14 & 19)

October 6, 2011

PONSOR, D.J.

Plaintiff has brought this action arising from an employment dispute against corporate Defendant MassMutual Financial Group and against two individual Defendants, Viviano and Scanlon. All three Defendants filed a Motion for Judgment on the Pleadings pursuant to Fed. R. Civ. P. 12(c), which was referred to Magistrate Judge Kenneth P. Neiman for a report and recommendation.

On September 6, 2011, Judge Neiman issued his Report and Recommendation, to the effect that Defendants' motion should be denied as to all Defendants on Count One. As to Count Two, which named only Viviano and Scanlon, Judge Neiman recommended that it be denied as to Scanlon but allowed as to Viviano. With regard to Count Three, which

again named only the two individual defendants, Judge Neiman recommended that it be allowed as to both defendants.

The conclusion of the Report and Recommendation admonished the parties at n.1 that any objections to the Report and Recommendation would have to be filed within fourteen days. No objections have been filed.

Based upon the merits of Judge Neiman's Report and Recommendation, and upon the absence of any objection from any party, the court, upon de novo review, hereby ADOPTS the Report and Recommendation (Dkt. No. 19). Based upon this, Defendants' Motion to Dismiss (Dkt. No. 14) is DENIED as to Count One, allowed as to Defendant Viviano but DENIED as to Defendant Scanlon as to Count Two, and ALLOWED as to both Defendants as to Count Three. The case will proceed against all three defendants on Count One, and against the individual Defendant Scanlon alone on Count Two.

This case is hereby referred to Magistrate Judge Kenneth P. Neiman to establish a schedule for completion of all further pretrial proceedings.

It is So Ordered.

/s/ Michael A. Ponsor
MICHAEL A. PONSOR
U. S. District Judge